

**TESTIMONY OF
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U.S. DEPARTMENT OF COMMERCE**

**BEFORE THE
SUBCOMMITTEE ON FISHERIES CONSERVATION,
WILDLIFE AND OCEANS
COMMITTEE ON RESOURCES
HOUSE OF REPRESENTATIVES**

H. CON. RES. 268 AND INTERNATIONAL FISHERIES ISSUES

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Mr. Chairman and Members of the Subcommittee, thank you for inviting me to present testimony on H. Con. Res. 268 and topics related to international fishery conservation and management. I am John H. Dunnigan, Director of the Office of Sustainable Fisheries in the National Oceanic and Atmospheric Administration, Department of Commerce. I am the U.S. Government Commissioner to the Northwest Atlantic Fisheries Organization, and I serve on the U.S. delegation to the International Commission for the Conservation of Atlantic Tunas (ICCAT).

NOAA is pleased that the Subcommittee is focusing on efforts to ensure greater compliance with conservation measures adopted by international regional fishery management organizations (RFMOs) by both member and non-member nations, as well as the effect that illegal, unreported, and unregulated (IUU) fishing activities are having on the effectiveness of conservation measures. We have devoted increased effort to these areas in recent years, and we appreciate the Subcommittee's interest in and support of these activities.

The Department welcomes H. Con. Res. 268, expressing the sense of Congress in ensuring compliance by foreign fishing fleets with the ICCAT conservation and management program. We recognize that Congress has provided a number of tools to encourage compliance with ICCAT rules and the rules of other RFMOs. We believe that the tools that result from multilateral decision processes are likely to be the most effective, and we intend to pursue their development and implementation.

In its letter of invitation, the Subcommittee raised a number of questions regarding compliance with international conservation and management measures, and IUU fishing. I will address these concerns in this same order.

Compliance with RFMO Conservation and Management Measures and IUU Fishing

The Food and Agriculture Organization of the United Nations (FAO) defines IUU fishing to include wrongful fishing wherever it might occur, on the high seas or in areas of national jurisdiction. The United States is completing its corresponding National Plan of Action in response to the agreement of the international community to the FAO International Plan of Action to Prevent, Deter, and Eliminate IUU Fishing. The Department of State took the lead in its development, and I will defer to its witness to brief you fully on this National Plan of Action.

The FAO estimates that more than 90 percent of the world's marine fish harvests take place within areas of national jurisdiction. The question then arises, how do we secure compliance with international fishery regimes within areas of national jurisdiction? By definition, the question relates to highly migratory and straddling fish stocks. The answer is simpler in theory than in practice: first, we must ensure that the relevant coastal states are members of the applicable RFMO or, at least, observe its rules; second, we must ensure that the RFMO adopts appropriate conservation and management measures; third, we must ensure that the members implement in their domestic laws and regulations the measures agreed to within the RFMO; and, finally, we must ensure that these domestically implemented measures are properly enforced by the coastal states. Conservation can and will fail if any of these links is broken or not present. Importantly, the United Nations Fish Stock Agreement requires states whose fishing vessels operate in any area covered by a relevant RFMO to join the RFMO or agree to apply its conservation and management measures. This provision, however, only applies to Parties to the UN Agreement.

The Subcommittee has also asked how much of the world's overfishing takes place within areas of national jurisdiction and how much occurs on the high seas. Complete documentation of the incidence of IUU fishing, either on the high seas or in areas under national jurisdiction, and the degree to which it contributes to overfishing does not exist. Those engaged in IUU fishing make every effort to conceal their activities. Also, I am not aware of any accepted estimate of the share of overfishing in high seas areas versus areas of national jurisdiction. I believe, however, that many of the most well-known examples of historic overfishing, e.g., various cod fisheries in the Atlantic off Canada, Iceland, and Norway; sardines off California; and orange roughy in the South Pacific, have taken place largely, if not predominantly, in areas of national jurisdiction.

IUU fishing on the high seas is a significant contemporary problem because the fishing technology employed tends to be very efficient and the target species, e.g., salmon and Patagonian toothfish, very valuable. IUU fishing on the high seas can do serious damage in a relatively short period of time; nevertheless, IUU fishing within areas of national jurisdiction likely contributes more to missing conservation goals than does IUU fishing on the high seas. At one extreme, even countries with the finest fisheries enforcement capabilities, like the United

States, cannot conduct monitoring and surveillance everywhere within their jurisdictions. At the other extreme, the majority of the world's coastal states have far less adequate and, in some cases, virtually nonexistent fisheries enforcement capabilities. The same is true of their fisheries management, and scientific information collection and analysis capabilities. Coastal states that target highly migratory and straddling fish stocks, share a common interest in their ability to execute these functions. A number of ICCAT's newest members are countries in need of and desiring such internal capacity building. To that end, the United States is involved in a number of initiatives that directly address capacity building in needed areas, including the White Water to Blue Water initiative and the Large Marine Ecosystems project. While there are no quick fixes with regard to this important matter, any efforts to improve the ability of countries to monitor and control their fleets will help in combating IUU fishing.

I also want to note our involvement in establishing and providing leadership to, along with our Chilean colleagues, the International Monitoring, Control, and Surveillance (MCS) Network. The MCS Network is a web-based, virtually cost-free alliance of fisheries enforcement professionals founded to enhance cooperation, coordination, and information collection and exchange. Its expanding membership includes 11 states plus the Forum Fisheries Agency of the Central and South Pacific and the European Union. It is a very tangible implementation of the International Plan of Action on IUU fishing, as well as a means to expand the effectiveness and efficiency of fisheries enforcement, particularly for developing countries.

ICCAT

ICCAT coordinates the international management of Atlantic tunas and tuna-like species. The organization currently has 36 members. Primary U.S. objectives over the last several years have included seeking measures to rebuild overfished stocks and improve adherence to ICCAT rules by members and non-members. With regard to rebuilding, we have had a number of successes, including the adoption of rebuilding plans for western bluefin tuna (1998), North Atlantic swordfish (1999), and blue and white marlins (2000). As you may know, the sacrifices made to rebuild North Atlantic swordfish began to show results last year with a significant increase in biomass. Although the resultant increase in total allowable catch was higher than the United States would have liked, we were nevertheless pleased to see such encouraging signs from the fishery in such a short time.

ICCAT has adopted a variety of state-of-the-art compliance measures, including imposing penalties (e.g., quota reductions, trade sanctions) against members for infractions. The Commission has also adopted action plans that contemplate the use of trade sanctions against member and non-member countries that diminish the effectiveness of ICCAT, and sanctions have been imposed in several instances. These measures have been successful in reducing IUU fishing in the Convention area. Most recently in its fight against IUU fishing, ICCAT adopted a vessel list program that provides a basis to limit market access to only those products taken by authorized vessels.

Despite the strides made at ICCAT, particularly over the last decade, a number of difficult issues remain. Data collection and reporting continue to be a challenge for some parties, and a special meeting will be held in fall 2003 to consider this matter. Moreover, the stock structure of Atlantic bluefin tuna, currently managed as two separate stocks, remains in question. ICCAT agreed to convene a meeting of scientists and managers in November 2003 to consider this issue. In addition, ensuring that ICCAT rebuilding plans stay on course and that new programs are developed for any other overfished stocks will be important. We intend to ensure that ICCAT continues to make needed progress in improving member compliance and non-member cooperation, including addressing IUU issues. Progress was made in this area during recent intersessional meetings at which members worked to streamline ICCAT's current trade instruments and considered the need to broaden substantially its existing compliance regime. Currently, the 100 percent quota payback provision applies to all species under catch or landings limitations, including marlin. The penalty and trade sanction provisions of this regime, however, only apply to bluefin tuna and swordfish. Trade sanction provisions also apply to bigeye tuna. ICCAT is developing a more comprehensive monitoring and control program, part of which includes clearly defining flag state duties and requiring the use of vessel monitoring systems and logbooks. ICCAT will again consider these issues in November 2003.

With respect to compliance issues in ICCAT fisheries, the Secretary of Commerce sent letters to the European Commission (EC) in April of this year. Secretary Evans noted the importance of the conservation of marine fisheries and expressed concern about actions and positions taken by the EC at ICCAT in 2002, particularly regarding EC support of an eastern bluefin tuna total allowable catch far in excess of scientifically recommended, sustainable levels. Secretary Evans stated that positions such as these have the potential to threaten the long-term future of shared resources and to lead to serious friction in U.S.- EC trade relations. As an example, the Secretary pointed to a petition filed by a recreational fishing organization under Section 301 of the Trade Act of 1974 that sought relief from allegedly unjustifiable acts, policies, and practices of the EC related to ICCAT. Although this petition was withdrawn prior to the 2002 ICCAT meeting, in his letter, the Secretary urged the EC to take prompt action to improve EC compliance with existing ICCAT measures and to reconsider accepting science-based conservation measures in the future.

NOAA Fisheries has also received a request to certify the EC pursuant to the Pelly Amendment to the Fishermen's Protective Act of 1967, for diminishing the effectiveness of ICCAT. The decision on certification has been left open for the time being while we monitor the activities of the EC and its Member States. In this regard, Assistant Administrator Hogarth sent a letter to EC Director General for Fisheries explaining the request, noting its seriousness, and indicating that we intend to investigate it fully. He has also been in contact with the head of the EC delegation to ICCAT concerning this matter, and we continued our dialogue at the U.S.-EC High Level Fisheries Consultations, held June 30 - July 1, 2003, in Washington, D.C. We have consistently stressed the importance of EC implementation of its ICCAT commitments and will continue to do so.

The United States intends to continue its active involvement in addressing the problems of overfishing and IUU fishing at the national, regional, and global levels. NOAA and its federal partners faced these challenges with regard to large-scale pelagic driftnet fishing on the high seas. NOAA Fisheries will bring our responsibilities for recovering and conserving protected species and habitats, and our concern with reducing bycatch and addressing IUU fishing to bear in addressing these problems as part of NOAA's global marine stewardship mission.

Thank you, Mr. Chairman, for this opportunity to review how NOAA Fisheries is conducting the tasks assigned it pursuant to the many international fisheries treaties and conventions with which the United States is involved. We are committed to working with our state and federal partners for the effective management of our Nation's fisheries resources. Mr. Chairman, this concludes my testimony. I would be pleased to respond to any questions from Members of the Subcommittee.